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Ref:DV155-01  
May 31, 2001

TO: Jay & Kylanne Sandelin, 477 Tamarack Creek Rd., Whitefish, 59937  
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Dept. of Environmental Quality, Metcalf Bldg., PO Box 200901, Helena, 59620-0901  
Montana Fish, Wildlife & Parks: Director's Office, Legal Unit, and Enforcement  
Evaleen Starkel, DoL, Third Floor, Scott Hart Bldg., 301 Roberts, Helena, 59620  
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Joe Gutkoski, Montana River Action Network, 304 N 18<sup>th</sup>, Bozeman, 59715  
Flathead County Commissioners, 800 S. Main, Kalispell, 59901  
Rep. Bob Lawson, PO Box 686, Whitefish, 59937-0686  
Sen. Bob Depratu, PO Box 1217, Whitefish, 59937-1217

Ladies and Gentlemen:

Montana Fish, Wildlife & Parks has completed the Final Environmental Assessment and the proposed Decision Document for the Sandelin Velvet Ridge alternative livestock facility expansion license. Copies are enclosed for your information.

Sincerely,



Dan Vincent  
Regional Supervisor

DV/nli  
Enclosure

Velvet Ridge Final EA

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c: John Smart, 125 Humbolt Loop, Helena, 59601  
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Joseph Delozier, 1051 Frogtowne Lane, Hanover, PA 17731  
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Steve Thompson, National Resource Consulting, Box 4471, Whitefish, 59937



**VELVET RIDGE  
ALTERNATIVE LIVESTOCK EXPANSION  
DECISION DOCUMENT**

May 31, 2001

**Alternative Livestock Application and MEPA Review.**

Montana Fish, Wildlife and Parks (FWP) received an application dated April 14, 2000, from Jay and Kylanne Sandelin to expand their alternative livestock facility in Flathead County, Montana. FWP received the application on April 19, 2000, and accepted the application as complete in a letter to the Sandelins dated May 17, 2000. The proposed expansion of the Velvet Ridge alternative livestock facility is located approximately 12 miles northwest of the town of Whitefish, Montana. The property is located on a tributary of Tamarack Creek, about one mile upstream from the creek's confluence with the Stillwater River.

The purposes of the facility would be for breeding stock, meat and antler production, trophy sales, and other activities such as photography. The proposal does not include fee shooting of alternative livestock at the facility. The proposed 80-acre expansion would be directly adjacent to an existing alternative livestock facility of 12 acres that is licensed for up to 20 elk in Section 13, Township 31 North, Range 23 West.

The applicants propose that up to 160 alternative livestock be allowed in the 80-acre expansion area on a year-round basis. Species include up to 110 elk, 10 white-tailed deer, 10 caribou, 10 mule deer, 10 bighorn sheep, and 10 mountain goats. The species distribution would be based on future market conditions. The expansion is expected to be completed by fall 2002. The combined existing and proposed alternative livestock facility would contain up to 180 alternative livestock on 92 total acres. Additional animals would be acquired from other licensed facilities.

FWP and the Montana Department of Livestock (DoL) prepared a draft Environmental Assessment (EA) pursuant to the Montana Environmental Policy Act (MEPA) and alternative livestock statutes. This document was distributed for public review and comment on August 4, 2000, with comments accepted through August 25, 2000. No public hearings regarding this proposed expansion were conducted.

FWP received 4 written and 1 verbal public comment submittals during the comment period. Issues raised included risk of disease (especially chronic wasting disease); effects on water quality, wetlands, soil erosion, and water rights; ethics; agricultural and hunting traditions; clarification of the MEPA process; enforcement of Best Management Practices and recommended mitigation measures; monitoring; and private property

rights. These comments were collected and sorted by Maxim Technologies, Inc., Helena, MT, with responses to specific issues prepared by Maxim, FWP, and DoL. A summary of the specific issues raised and resulting responses are included in the Final EA.

Upon completion of the EA, it was determined that a full Environmental Impact Statement would not be required. No significant impacts from the proposed action were identified that could not be mitigated.

In September of 2000 and just prior to issuance of a Decision Document for the proposed 80-acre expansion, Jay and Kylanne Sandelin requested a modification to their proposal. They asked that a 25-foot strip of land on the north boundary of the existing 12-acre alternative livestock facility be included in the expansion project. This request was formalized in a letter to FWP from Sandelins that was received February 16, 2001. The intent of the inclusion was twofold:

1. To provide an alleyway for the efficient movement of alternative livestock between the proposed expansion area, along the northern boundary of the existing 12-acre facility, and finally to the existing handling and quarantine area.
2. To provide a double fencing situation on the northern boundary of both the existing facility and the proposed expansion.

The 25-acre strip had been excluded from the original 12-acre facility under stipulation to serve as a buffer zone for filtration of microbes and nutrients from any potential runoff from the facility due to its wetland nature. In reviewing the request, FWP determined that the request constituted a substantial change in a proposed action and, as such, a supplemental EA should be prepared to review the request and provide an opportunity for additional public comment. A supplemental EA was prepared concerning this 25-foot strip of land and distributed for public comment on April 25, 2001. Comments were accepted until May 9, 2001. This Decision Document addresses both the proposed 80-acre expansion and the request for use of the 25-foot buffer.

A copy of the Final EA is attached.

### **Proposed Decision:**

Based upon our review of the EA, the license application file, and the information noted below, FWP has determined that a modification to the existing alternative livestock facility as described will be licensed. The issuance of this license for the expanded acreage is contingent upon approval of all fence construction and the Licensee's adherence to the stipulations listed below. The Licensee will have 3 years from the date of this approval to complete all fence construction as submitted in his application.



Changes from the application must be approved by FWP prior to implementation of modifications.

The Licensee must be in compliance with all alternative livestock statutes, rules, and regulations of Montana Fish, Wildlife and Parks and Department of Livestock. Current regulations are attached for the applicants' information, but it is the Licensee's responsibility to keep up with any changes in the laws or regulations. The Licensee must also comply with the stipulations listed below.

With most alternative livestock facilities, there is a concern for disease transmission to wild populations and also genetic 'pollution,' should wild and captive animals interbreed. Wild animals, such as native elk, black bears, mountain lions, and coyotes, can be attracted to elk facilities due to the availability of food and potential breeding opportunities. Responsible management and adherence to FWP stipulations and regulations will reduce the risk of contact between wild game and captive elk to an acceptable level. The EA recommends additional measures, which should assist in that effort.

The proposed expansion will exclude wildlife from using approximately 80 acres of habitat if all phases of the facility are constructed. Given the total size of the enclosure, the impact from the loss of habitat was not considered significant.

Any potential impacts on water quality not addressed herein can be mitigated by the applicants' compliance with the state's water quality standards and requirements. Point source discharges, which include operations qualifying as concentrated animal feeding operations, are regulated under Title 75, Chapter 5, Part 6, MCA and ARM 16.20.1301, et. seq., and may require permits, especially if animal numbers result in significant loss of vegetation. Nonpoint source discharges are regulated under the prohibitions against the pollution and nondegradation of state waters (Title 75, Chapter 5, Parts 3 and 6, MCA and ARM 16.20.701 et. seq.). Nonpoint sources of pollution are considered non-significant sources of degradation where reasonable land, soil, and water conservation practices are applied and existing, and anticipated beneficial uses will be fully protected (ARM 16.20.713). The Department of Environmental Quality has the authority to determine whether an activity satisfies these standards (ARM 16.20.709).

The accumulation of packed snow, windthrow, and other factors increase the risk of ingress and egress associated with most alternative livestock facilities. FWP requires the immediate notification of the ingress or egress of any wild or captive ungulate in order to assess the adequacy of fencing requirements. This should help to address problems early and may result in additional modifications to fence design.

The Department has the duty under the Montana Environmental Policy Act to conduct an additional environmental review if the action approved by the agency changes, subsequent to the agency's original approval, in a manner which has impacts substantially different from those which were reviewed in the original MEPA review

(Ravalli County Fish and Game Association v. Montana Department of State Lands, 273 Mont. 371, 903 P.2d 1362 (1995)). For that reason, the Department provides notice that the MEPA review performed for this license application reviewed the impacts of an alternative livestock expansion with up to 110 elk, 10 white-tailed deer, 10 mule deer, 10 bighorn sheep, 10 caribou, and 10 mountain goats on the expanded acreage consisting of 80.57 acres. To the extent that the applicants hereafter increases the number of species of animals or makes other significant changes to the operation, a supplemental MEPA review must be conducted.

### **License Stipulations:**

The following requirements, which have been agreed to by the applicants, are imposed by FWP for Sandelins' Velvet Ridge expansion as well as the existing 12-acre facility and are designed to ensure that the fence enclosure is maintained in game-proof condition:

- (1) Licensee shall inspect the perimeter fence on a regular basis (e.g., weekly) and immediately after or during events that have a greater probability of damaging the fence (e.g., wind storms and significant precipitation events) to ensure fence integrity with respect to falling trees, surface water runoff, burrowing animals, predators, and other game animals. Fence inspection shall follow a written fence-monitoring plan that is submitted and approved by FWP prior to issuance of the license. If major repairs of the perimeter fence are required due to falling trees or heavy runoff, no alternative livestock shall be placed back into the affected pasture(s) until the fence is inspected for game-proof condition by an FWP representative. Additional remedial actions may be required by FWP if ingress or egress occurs at the facility.
- (2) Upon concurrence with an FWP representative, perimeter fence height shall be increased to a minimum of 10 feet in areas of steep slopes (>50 percent or 30 degrees).
- (3) The applicants shall submit and obtain FWP approval prior to licensing for a plan to address snow accumulation. The plan shall provide for an increased fence height of 10 feet or more along any portion of the perimeter fenceline that may experience continued snow accumulation during a typical winter. Other suitable measures can be proposed to control the height of packed snow along the perimeter fence.
- (4) The 25-foot strip of land along the north boundary of the existing 12-acre facility may be used as an alleyway for the movement of animals between various pens and pastures. Animals will be allowed to utilize the 25-foot strip for light grazing



purposes between July 1 and November 1 of each year to help protect the existing vegetation. Use of this 25-foot strip to facilitate the movement of motor vehicles between pens is expressly prohibited.

- (5) The 25-foot strip of land will not be enclosed and included within the exterior boundaries of the facility until at least the first phase of the requested 80-acre expansion has been completed.

The first three requirements are imposed to mitigate a potential risk to fence integrity and the resulting potential for ingress/egress of domestic elk and wildlife. Without these requirements, risk to wildlife from contact with alternative livestock would have the potential to be significant due to the site being located in an area with steep slopes, considerable snowfall, and tall trees. Regular fence-monitoring and a written fence-monitoring plan is required so that FWP has a level of confidence that potential fence integrity problems can be detected promptly.

#### **Recommended Mitigation Measures:**

The following list of recommended mitigation measures have been agreed to by the applicants and will be incorporated into the license requirements. They address minor impacts identified in the Sandelin Velvet Ridge Expansion alternative livestock EA. For a complete list of all mitigation measures, see the check-list portion of the Draft EA.

- Maintain a reasonable stocking rate in the proposed facility to mitigate potential impacts from erosion and fecal matter.
- Store feed away from exterior fences or enclose in containers or buildings.
- Feed alternative livestock at interior portions of the enclosure and not along the perimeter fence.
- Remove dead animals or bury on-site according to DoL regulations. Removed carcasses should be deposited at a site not likely to be used by humans, wildlife, or domestic animals.
- Set back the perimeter fence at least 50 feet from state-owned land in areas of large trees to reduce the potential risk of trees falling on the exterior fence.
- Monitor the ranch site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented, if not already in place, to control the weeds.

- Control surface water discharges from the proposed site, if they occur, by employing Best Management Practices. The BMPs may include earthen berms, vegetation (willow plantings), buffer zones, straw bale dikes, or silt fences during portions of the year. The booklet, "Common Sense and Water Quality, a Handbook for Livestock Producers" (Montana Department of Health and Environmental Sciences, 1994), is recommended for further mitigation measures.
- Stop work in the area of any observed archaeological artifacts. Report discovery of historical objects to the Montana Historical Society; Historic Preservation Office, (406) 444-7715. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take pictures, and preserve the artifact(s).

  
 Daniel P. Vincent  
 Regional Supervisor

5/31/01  
 Date

\_\_\_\_\_  
 Jay Sandelin  
 License Applicant

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Kylanne Sandelin  
 License Applicant

\_\_\_\_\_  
 Date

Please sign the document and return the original to FWP to indicate your concurrence with the license stipulations and recommended mitigation measures listed above. A copy of the signed decision will be provided to you for your records.

Mail to: Nancy Ivy, MFWP Region One, 490 North Meridian Rd., Kalispell, MT 59901



# **FINAL ENVIRONMENTAL ASSESSMENT SANDELINS' VELVET RIDGE ALTERNATIVE LIVESTOCK OPERATION**

## **MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS**

Montana Fish, Wildlife & Parks (FWP) is required to perform an environmental analysis in accordance with the Montana Environmental Policy Act (MEPA) for "each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment" (Administrative Rules of Montana [ARM] 12.2.430). FWP prepares an environmental assessment (EA) to determine whether a project would have a significant effect on the environment.

The people of Montana, through our legislature, have determined that the alternative livestock industry is appropriate in Montana. It is implicit that these operations create some risk that cannot be eliminated. The level of risk that a particular project may introduce must be evaluated by FWP (through the MEPA process) using legislative intent, the negotiated rules and standards therein, as well as established practices that have been demonstrated to be sufficiently effective measures for similar conditions elsewhere.

If FWP determines that a project would have a significant impact that cannot be mitigated to a minor impact, the agency prepares a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon results of the EA and criteria established under Montana alternative livestock statute, Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4.

Mitigation measures may be considered in FWP's analysis as a means to reduce impact(s) of an alternative livestock ranch to a level below significance. FWP may also recommend mitigation measures to reduce impacts that are considered minor. FWP prepared a Draft EA for the proposed expansion to the Sandelin alternative livestock operation, which identified no significant impacts from the Proposed Action that could not be mitigated. The Draft EA was released for public review and comment August 4 through August 25, 2000.

In September of 2000, and just prior to issuance of a Decision Document for the proposed 80-acre expansion, Jay and Kylanne Sandelin requested a modification to their expansion proposal. They asked that a 25-foot strip of land on the north boundary of the existing 12-acre alternative livestock facility be included in the expansion project. This request was formalized in a letter to FWP from Sandelins that was received February 16, 2001.

The 25-acre strip had been excluded from the original 12-acre facility under stipulation to serve as a buffer zone for filtration of microbes and nutrients from any potential runoff from the facility due to its wetland nature. In reviewing the request, FWP determined that the request constituted a substantial change in a proposed action and, as such, a supplemental EA should be prepared to review the request and provide an opportunity for additional public comment. A supplemental EA was prepared concerning this 25-foot strip of land and distributed for public



comment on April 25, 2001, with comments accepted until May 9, 2001. This Final EA addresses both the proposed 80-acre expansion and the request for use of the 25-foot buffer.

The Draft EA also provided an analysis of impacts to private property by proposed stipulations in the EA as required under 75-1-201, MCA, and the Private Property Assessment Act, Chapter 462, Laws of Montana (1995). The analysis provided in the Draft EA was conducted in accordance with implementation guidance issued by the Montana Legislative Services Division (EQC 1996).

The Draft EA and supplement, as modified herein, and this Final EA are hereby approved as the Final EA. This Final EA for the proposed expansion to the Sandelin alternative livestock operation contains summaries of the Proposed Action, affected environment, and potential consequences of the Proposed Action, all of which are described in additional detail in the Draft EA and supplement, which is adopted in this Final EA. This document also describes mitigation measures and stipulations, includes a summary of substantive public comments and agency responses to those comments, and provides the conclusion of the EA. The preferred alternative is the Proposed Action, with five required stipulations and several recommended mitigation measures.

## **PRIOR ENVIRONMENTAL REVIEW AND LICENSE**

The existing 12-acre alternative livestock facility, owned and operated by Jay and Kylanne Sandelin, was subject to an EA completed by FWP in 1997. The EA included an evaluation of potential impacts to the physical environment (land, air, water, vegetation, fish, and wildlife) and human environment (noise, land use, risk/health, community, public service/taxes/utilities, aesthetics/recreation, and cultural/historic resources). A Decision Document was completed by FWP in July 1997 to allow up to 20 elk in the 12-acre enclosure. License No. 134 was granted to Jay and Kylanne Sandelin for the 12-acre alternative livestock facility (previously referred to as "game farm"), with the most recent license renewal dated March 2, 2000. Five stipulations were included with the Decision Document and license:

1. Licensee must report to FWP the ingress of any game animal or any predators of ungulates (e.g., mountain lion, black bear, grizzly bear, or coyote) immediately upon the discovery, and the reason for such ingress.
2. The applicants shall submit and obtain FWP's approval prior to licensing for a plan to address snow accumulation. The plan shall provide for an increased fence height of 10 feet along the portion of the northern boundary of the game farm that extends west of the existing power line corridor and propose other measures suitable to control the height of packed snow.
3. A 25-foot vegetative buffer zone will be maintained between the north perimeter of the game farm fence and the adjacent property line. (Note: the purpose of this buffer zone is to filter out sediment, nutrients, and microorganisms from runoff that may come from the enclosure area).
4. FWP has conducted a MEPA review based upon the number of animals (20) and game farm acreage (12) specified in the license application. A supplemental MEPA review may



be required if the applicants increase the number of animals above 20 or fails to fence the entire 12 acres. Fence construction must be completed no later than July 1999.

5. Licensee is authorized by the Department of Livestock to use quarantine facilities at the Grant Spoklie game farm (License No. 126) until on-site facilities are constructed. Licensee must complete construction of on-site quarantine facilities by December 5, 1998.

Key environmental impacts noted in the EA for the 12-acre alternative livestock operation include the following:

- Wild animals such as native elk, black bears, mountain lions, and coyotes can be attracted to the alternative livestock facility due to the availability of food and potential breeding opportunities. There is the concern of disease transmission to wild populations and also genetic pollution should wild and captive animals interbreed.
- The enclosure will exclude native wildlife from using 12 acres of habitat that is currently considered winter range for white-tailed deer, elk, and moose.
- Potential for impacts to surface water and groundwater quality in the vicinity of the alternative livestock facility, including a wetland area within the enclosure.
- Potential for significant accumulations of compacted snow along the fence line, increasing the risk of ingress and egress.

For the 1997 EA, a total of five written comments and one verbal comment were received by FWP during the public comment period.

## PROPOSED ACTION

FWP received an initial application dated April 14, 2000, from Jay and Kylanne Sandelin to expand their alternative livestock facility in Flathead County, Montana. FWP received the application on April 19, 2000, and accepted the application as complete in a letter to the Sandelins dated May 17, 2000. The proposed expansion to the Velvet Ridge alternative livestock facility is located approximately 12 miles northwest of the town of Whitefish, Montana. The property is located near Tamarack Creek, about 1 mile upstream of the creek's confluence with the Stillwater River. The applicants (Sandelins) live adjacent to the proposed expansion site.

The proposed expansion site is located immediately west of the existing licensed alternative livestock facility (License No. 134). The proposed alternative livestock facility is located in the NE¼ of Section 13, Township 31 North (T31N), Range 23 West (R23W) and would add 80 acres to the existing 12-acre facility. The existing facility is licensed for up to 20 elk in the NW¼ of Section 13, T31N, R23W. An EA and Decision Document were prepared by FWP in 1997 for the 12-acre alternative livestock facility.

The applicants propose that up to 160 alternative livestock be allowed in the 80-acre expansion area on a year-round basis, including 110 elk, 10 white-tailed deer, 10 mule deer, 10 caribou, 10 bighorn sheep, and/or 10 mountain goats. The species distribution, however,

would be subject to change based on future market conditions. The expansion is expected to be completed by the fall of 2002. The combined existing and proposed alternative livestock facility would contain up to 180 alternative livestock on 92 acres.

Purposes of the proposed alternative livestock facility include breeding stock, meat and antler production, trophy sales, and other activities such as photography. The applicants have indicated, however, that shooting of alternative livestock by the public would not be allowed at the site. Alternative livestock to occupy the expanded facility would be procured from licensed facilities; however, none have been identified at this time. The applicants shall remove all game animals from the enclosure and that removal must be verified by FWP prior to licensure of the expansion.

Fence construction would be completed in accordance with requirements of FWP under ARM 12.6.1531. Fencing would consist of 8-foot high, high-tensile, Tightlock steel wire fencing on steel posts, with higher fencing on steep slopes identified by FWP and the applicants. The fence bottoms would be installed to provide not more than 3 inches of ground clearance. No exterior gates would be constructed for the proposed expansion fence (expansion area would be connected to the existing 12-acre facility). A handling and quarantine facility located in the existing 12-acre alternative livestock facility would be used for the proposed new facility.

In September of 2000, and just prior to issuance of a Decision Document for the proposed 80-acre expansion, Jay and Kylan Sandelin requested a modification to their proposal. They asked that a 25-foot strip of land on the north boundary of the existing 12-acre alternative livestock facility be included in the expansion project. The intent of the inclusion was two-fold:

1. To provide an alleyway for the efficient movement of alternative livestock between the proposed expansion area, along the north boundary of the existing 12-acre facility, and finally to the existing handling and quarantine area
2. To provide a double fencing situation on the northern boundary of both the existing facility and the proposed expansion.

The 25-acre strip had been excluded from the original 12-acre facility under stipulation to serve as a buffer zone for filtration of microbes and nutrients from any potential runoff.

## **ALTERNATIVES**

One alternative (No Action alternative) is evaluated in this EA. Under the No Action alternative, FWP would not issue a license for expanding the existing 12-acre Sandelin alternative livestock operation as proposed. Therefore, no alternative livestock would be placed in the proposed enclosure. Implementation of the No Action alternative would not preclude other activities allowed under local, state, and federal laws to take place at the proposed alternative livestock site.

## **AFFECTED ENVIRONMENT**

The proposed Sandelin expansion of the Velvet Ridge alternative livestock facility is located on



leased land about 12 miles northwest of Whitefish, Montana. This section summarizes primary environmental resources in the project area.

### **Land Resources**

The proposed expansion is located on approximately 80 acres of primarily forested land on the flanks of a north-south trending ridge. The property lies on the northwest and northeast facing slopes of the ridge, with the ridge bisecting it near the eastern property boundary. Slopes range from flat in the northwestern corner to nearly vertical, with rock outcrops occurring in the southern portion of the enclosure. The majority of the site is in the moderate slope class (between 20 and 40 percent, or 11 to 22 degrees). This area was historically used for timber production and livestock grazing. Soils have developed on glacial till and have medium-textured surface layers. Soil units are mantled and are highly productive if soil surface layers are not displaced or removed. Wet soil, such as that found in the western lowland portion of the site, generally has low strength and compacts easily.

### **Water Resources**

Surface water in the proposed expansion area consists of some overland flow during spring runoff that moves north and west along the western portion of the property. Water drains toward Tamarack Creek, a tributary to the Stillwater River, located approximately 1 mile west of the alternative livestock site. One man-made pond exists outside the proposed enclosure in the western portion of the property that is fed by a spring. Subsurface water flows into a man-made ditch channel along the western fence line of the property. Direction of groundwater flow in the vicinity of the proposed alternative livestock facility is northwesterly toward Tamarack Creek. Depth to unconfined groundwater is relatively shallow and contained in unconsolidated alluvial and glacial sediments in the western portion of the proposed expansion area. Depth to the primary water-producing zone (bedrock) ranges from 50 to 150 feet. During the spring runoff period, sediment in low-lying areas on the west side of the site can become saturated to the surface, and surface water can leave the enclosure area.

Montana's Section 303(d) list shows that the lower section of the Stillwater River adjacent to and downstream of the alternative livestock site (44.1-mile reach of B-2 use classification) is impaired for aquatic life, cold water fisheries, and drinking water. Numerous water rights are held for groundwater wells and surface water (Tamarack Creek and Stillwater River) within a mile of the proposed alternative livestock facility.

### **Vegetation Resources**

Most of the proposed enclosure area is forested, consisting primarily of mature Douglas fir, lodgepole pine, and interspersed western larch. Young Douglas fir regeneration is found in pockets scattered throughout the upper portions of the property. Understory vegetation in the forested portion includes pinegrass, snowberry, common juniper, arnica, spirea, and various additional grasses and forbs. The property has been recently thinned (logged) and canopy coverage is currently estimated at approximately 30 percent; though small 1- to 2-acre openings are also dispersed across the area. A small area (2 to 5 acres) of brush rangeland, including some wetlands, occurs in the northwest corner of the proposed enclosure.

Forage production for the proposed expansion area is estimated at 1,000 to 1,200 pounds per

acre; therefore, total forage for the proposed 80-acre enclosure is about 80,000 to 96,000 pounds (40 to 48 tons) on an annual basis. No federally listed threatened or endangered plant species were observed within the proposed enclosure site. The proposed site does contain noxious weeds (e.g., Canada thistle), especially in previously logged areas and along old skid roads.

### **Wildlife Resources**

The proposed site and surrounding land is used by white-tailed deer, elk, moose, and mule deer during all or parts of the year. Winter range for white-tailed deer has been delineated adjacent and to the south and east of the property. Elk also use the area during some winters, and known elk and mule deer winter range is located approximately 2 miles from the property on the north shore of Whitefish Lake and 2 miles southeast of the property to the south of Beaver Lake. Moose likely are transient in the area during part of the year. Other wildlife species known or expected to use the area, at least on a transient basis, include black bear, grizzly bear, mountain lion, and coyote. Gray wolves (Whitefish Pack home range), bald eagles, and lynx are federally listed as threatened or endangered and may also visit the general area (Tim Thier, FWP, pers. comm., 2000).

### **Land Use/Community**

Most land immediately surrounding the proposed alternative livestock facility is public (state-owned, managed by the Montana Department of Natural Resources and Conservation) and private timberland and pasture which is grazed by domestic livestock. Land in the general area has historically been used by local farmers and ranchers, though recent ingress of residents on smaller subdivided parcels has also occurred on private land to the north, west, and south of the site. The two nearest permanent residences (other than Sandelin) are located approximately ¼ mile west of the site. Highway 93 is located approximately ½ mile west of the site.

### **Risk/Health Hazards**

Domestic livestock are currently pastured in the vicinity of the property. There are resident populations of elk and deer in the vicinity of the proposed enclosure. These domestic and wild animals located outside of the proposed enclosure potentially could be subject to or a source of disease transmission and/or hybridization.

## **ENVIRONMENTAL CONSEQUENCES**

Only primary resources that have potential adverse effects from the Proposed Action are summarized in this section. A detailed discussion of environmental consequences is contained in *Part II* of the Draft EA.



## Land Resources

Environmental impacts to land and soil resources associated with the Proposed Action of raising up to 160 animals on the 80-acre expansion area are expected to be minor with respect to land and soil resources. Primary impacts would be associated with soil compaction potential in the western portion of the proposed enclosure, where wet conditions are present, and the potential for reduced vegetative cover throughout the site. Where soil becomes exposed, which could occur if the stocking rate and/or lack of animal dispersal removes vegetative cover, the potential for erosion exists, primarily on the steeper slopes.

## Water Resources

Increased runoff and erosion could occur in some areas of the proposed enclosure if pasture use is such that vegetative cover is diminished. The proposal to pasture up to 160 alternative livestock on the site would reduce vegetative cover. Areas of the enclosure that would be most susceptible to erosion problems are on the steep slopes, wet areas, and along the ditch channel banks. The extent to which erosion would occur is dependent primarily on animal density, season, and duration of use. The exterior enclosure fence would not cross any perennial streams or ponds. Runoff from the southern portion of the enclosure would enter the pond outside the west fence line, and from the northern portion, runoff would enter the ditch along the inside of the northwest fence line. Therefore, surface water would leave the immediate area only during extreme precipitation events or periods of snowmelt.

Alternative livestock fecal matter and nutrient-enriched water may have a minor effect on the quality of water in the vicinity of the alternative livestock site (dependent upon animal density and waste management practices), primarily during periods of snowmelt and major precipitation events. As stated above, however, surface runoff would not leave the immediate area during most of each year, and groundwater is in confined, semiconfined, and/or low-permeable clayey glacial deposits.

## Vegetation Resources

The occupancy period for alternative livestock would be on a year-round basis. The proposed site would supply an estimated 20 percent of forage needs when fully stocked with 160 animals. The maximum stocking rate of approximately 2 animals per acre is considered high under existing vegetative conditions and would contribute to the long-term decline of vegetation resources on the site, both in terms of plant species composition and productivity. Supplemental feed would be needed to sustain the animals during the nongrowing season and some feed should be provided during the growing season to help reduce animal use of the native vegetation and to reduce potential impacts on ground cover. There are no plans to physically alter the native plant communities on the proposed facility (i.e., crop or hay cultivation). There are no known threatened or endangered plant species in this area.

Noxious weed spread is possible at this site and, under an intensive grazing regime, with no weed management, would be expected to invade and subsequently increase in abundance. Weeds would spread quickly to disturbed areas around any site that animals are fed or handled. Weed seeds could be imported into the area with animal feed. The applicants would develop and implement a weed control program on the ranch, including vegetative seeding of exposed areas. If best management practices (BMPs) are properly implemented and a



reasonable stocking rate is maintained as proposed by the applicants, impacts to vegetation would be minor.

### **Wildlife Resources**

The exclusion of wild game from 80 additional acres would displace a few resident deer, elk, and moose from moderate-to-good quality habitat in the drainage. Game moving through the area would be forced to travel a minimal distance to get to the same point(s) along the travel routes. Mountain lions, bears, and wolves likely pass through this area and may be attracted to the alternative livestock.

The proposed enclosure fence crosses moderate (10 to 40 percent) to steep (100+ percent) slopes. Steep, irregular topography can present wildlife and alternative livestock with a topographic advantage to jump game-proof fencing. The potential for significant impacts to area wildlife due to ingress/egress risk would be mitigated to minor through strict adherence to fence construction, maintenance, and monitoring procedures.

A potentially significant concern regards the escape of captive elk and the potential for interbreeding of wild elk with domestic elk whose genetic makeup has been altered through several generations of selective breeding or through interbreeding with domestic red deer. Although red deer are now prohibited in Montana, historically some alternative livestock operators did bring red deer or red deer hybrids into their facilities. The concern regarding red deer hybrids is partially mitigated through current regulations and genetic testing. Although the impact of genetic pollution on wild elk herds is unknown, the effect is undesirable in terms of maintaining the genetic integrity of existing populations.

### **Land Use/Community**

The proposed expansion would be compatible with current and existing agricultural land uses. The alternative livestock facility would result in the conversion of about 80 acres of forested timber and grazing land to primarily grazing land. With respect to land use, no significant conflicts should result between operation of the ranch and the agricultural or residential areas. Additional homes could be constructed in the vicinity of the facility on private land. Potential effects of the alternative livestock facility on adjacent property values is difficult to evaluate because some nearby property owners may like the idea of the expansion, whereas others might find it undesirable.

Some local residents may feel the alternative livestock operation would decrease their quality of life. Neighbors harboring negative feelings about the operation would perceive a loss in their sense of social well-being. However, some neighbors and local residents may like the idea of an alternative livestock facility and enjoy viewing the elk. These people may feel the facility would add to their quality of life.

### **Risk/Health Hazards**

There is potential for transmission of water-borne disease pathogens, if present, to be transported into and out of the ranch, primarily from the ephemeral tributary to Tamarack Creek. This is expected to be a minor risk because of current animal disease testing requirements and lack of surface water flow from the site, except during conditions of



significant precipitation events and snowmelt (spring runoff). The route of chronic wasting disease (CWD) transmission at this time is unknown; therefore, the potential for transmission by soil, water, or other media cannot be determined nor impacts disclosed.

The risk of disease (e.g., brucellosis and tuberculosis) being passed from alternative livestock to wildlife and domestic livestock would be minimal if fence integrity is maintained and the stipulations and/or mitigation measures described in this EA are followed. Potential for disease transmission from ranch animals is also mitigated through Montana Department of Livestock (DoL) disease testing requirements. Each facility is required to have access to an isolation pen (quarantine facility) on the property or an approved quarantine plan to isolate any animals that are imported or become ill. Steep slopes, snowdrift-prone areas, and trees along the perimeter fence of the proposed enclosure have the potential to affect fence integrity.

There is some risk of infection to hunters who field dress deer or elk infected with tuberculosis or brucellosis. Routine brucellosis and tuberculosis testing requirements for alternative livestock offer a measure of surveillance that minimizes that risk. Another potential risk to human health would be the attraction of predators to the proposed enclosure and the proximity of residences to the site. Therefore, increased encounters between predators (e.g., mountain lions and bears) and humans could occur as a result of the expanded enclosure area.

## **CUMULATIVE EFFECTS**

The Proposed Action would add to impacts associated with the existing alternative livestock facility (License No. 134) located immediately west of the proposed facility. The existing operation is licensed for up to 20 elk on 12 acres. This facility, in combination with the proposed alternative livestock operation, could result in up to 180 alternative livestock on 92 acres in the Stillwater River Valley. The Spoklie Tobie Creek alternative livestock facility is located approximately 7 miles southwest, and the Tutvedt BCD alternative livestock facility is located about 15 miles south of the Velvet Ridge site. The Proposed Action would result in potential impacts that have been identified as either potentially significant or minor. Mitigation of the potentially significant impacts to the level of minor will be accomplished using required stipulations.

## **REQUIRED STIPULATIONS**

Five stipulations were developed as part of License No. 134 for the existing 12-acre alternative livestock facility. Three of these stipulations, with some wording modification, would be continued for the proposed expansion (including the existing 12-acre facility). The other two previously specified stipulations are not continued because they are either addressed in current statute and/or rule, or have already been satisfied as part of previous operations. Two new stipulations have been added. The five stipulations applicable to the entire 92-acre Velvet Ridge alternative livestock operation are as follows:

- (1) Licensee shall inspect the perimeter fence on a regular basis (e.g., weekly) and immediately after or during events that have a greater probability of damaging the fence (e.g., wind storms and significant precipitation events) to ensure fence integrity with respect to falling trees, surface water runoff, burrowing animals, predators, and other game animals. Fence inspection shall follow a written fence-monitoring plan that



is submitted and approved by FWP prior to issuance of the license for the expanded acreage. If major repairs of the perimeter fence are required due to falling trees or heavy runoff, no alternative livestock shall be placed back into the affected pasture(s) until the fence is inspected for game-proof condition by an FWP representative. Additional remedial actions may be required by FWP if ingress or egress occurs at the facility.

- (2) Upon concurrence with an FWP representative, perimeter fence height shall be increased to a minimum of 10 feet in areas of steep slopes (>50 percent or 30 degrees).
- (3) The applicants shall submit and obtain FWP approval prior to licensing for a plan to address snow accumulation. The plan shall provide for an increased fence height of 10 feet or more along any portion of the perimeter fence line that may experience continued snow accumulation during a typical winter. Other suitable measures can be proposed to control the height of packed snow along the perimeter fence.
- (4) The 25-foot strip of land along the north boundary of the existing 12-acre facility may be used as an alleyway for the movement of animals between various pens and pastures. Animals will be allowed to utilize the 25-foot strip for light grazing purposes between July 1 and November 1 of each year. Use of this 25-foot strip to facilitate the movement of motor vehicles between pens is expressly prohibited.
- (5) The 25-foot strip of land will not be enclosed and included within the exterior boundaries of the facility until at least the first phase of the requested 80-acre expansion has been completed.

The stipulations listed above are imposed to mitigate a potentially significant risk to fence integrity and the resulting potential for ingress/egress of alternative livestock and wildlife. Without these requirements, risk to livestock and wildlife from contact with alternative livestock would have the potential to be significant due to the site being located in an area currently utilized by wild game and predators. Regular fence-monitoring and a written fence-monitoring plan are required so that FWP has a level of confidence that potential fence integrity problems can be detected and corrected promptly before ingress or egress problems occur. Use of the 25-foot buffer on the northern boundary of the original 12-acre enclosure as an alleyway will help to facilitate the movement of animals between pens. At the same time, it will add an extra element of security due to the fact that it will essentially result in double fencing. Also, light grazing after July 1 should not seriously impact the ability of this area to act as a filter during the spring runoff period. These stipulations apply to the existing 12-acre enclosure, as well as the proposed 80-acre expansion.

## **RECOMMENDED MITIGATION MEASURES**

The following recommended mitigation measures address minor impacts identified in this EA for the proposed expansion of the Velvet Ridge alternative livestock facility for resources that have the potential to be affected by the Proposed Action:



## **Land Resources**

- Maintain a reasonable stocking rate within the enclosure to minimize changes in soil structure and potential increases in runoff and erosion to surface water drainages from disturbed ground. A "reasonable stocking rate" could include internal fencing and rotational grazing strategies that limit periods of time that alternative livestock would be using any one pasture in order to reduce potential for devegetation and erosion.

## **Water Resources**

- Maintain a reasonable stocking rate in the area to mitigate potential impacts from runoff and fecal matter. Potential water quality impacts also could be minimized by disposing of dead animals and excess fecal material at a site that is isolated from surface water and groundwater (disposal must meet county regulations for solid waste if applicable). On-site disposal of dead alternative livestock would be regulated by DoL under ARM 32.4.1002.
- For any areas that may have erosion and sedimentation problems, utilize best management practices (BMPs) where surface water could enter the ephemeral drainage channel, Tamarack Creek, and/or the Stillwater River. The BMPs may include earth berms, straw bale dikes, vegetative buffer zones, and/or silt fences to be used on a seasonal basis.

## **Vegetation Resources**

- Monitor the alternative livestock site for invasion of noxious weeds and treat affected areas in a timely manner. Should noxious weeds continue to be detected, a weed control program should be implemented, if not already in place, to control the weeds.
- Provide certified weed-free supplemental feed and minerals to the alternative livestock on a seasonal basis to reduce excessive grazing on preferred pasture plants.
- Create/utilize interior pastures such that rotational grazing strategies can be implemented to reduce adverse impacts to vegetation. In particular, allow only seasonal use of saturated soil in wetland areas.

## **Wildlife Resources**

- Store feed away from exterior fences or enclose in bear-resistant containers or buildings.
- Feed alternative livestock at interior portions of the enclosure and not along the perimeter fence.
- Remove dead animals, excess fecal material, and waste feed from the alternative livestock facility and deposit at a site not likely to be used by humans or domestic and wild animals.
- Set back perimeter fence at least 50 feet from state-owned land in areas of large trees to reduce potential risk of trees falling on fence.

## **Risk/Health Hazards**

- Mitigation measures recommended above for *Water Resources* and *Wildlife Resources* are applicable to this section. In addition, risk of disease epidemic or heavy parasite infections among alternative livestock can be minimized by maintaining a reasonable stocking rate in relation to the enclosure size, periodic removal of manure from concentration areas, and development of a disease immunization and parasite treatment protocol as applicable to alternative livestock.

## **Cultural & Historical Resources**

- If archeological artifacts are observed during construction of the enclosure fence or from other activities, work should stop in the area and the discovery reported to the Montana Historical Society in Helena. If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take photographs, and preserve the artifact(s).

## **SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES**

Public comments for the expanded Sandelin's Velvet Ridge alternative livestock operation Draft EA were accepted from August 4 through August 25, 2000. Four letters and one phone message addressing this Draft EA were received from the public. Public comments for the expansion supplement were accepted from April 25 to May 9, 2001. Three letters and one phone message were received. All substantive issues and questions raised during the two comment periods are summarized below, along with FWP and DoL responses. Public comments are considered substantive if they relate to inadequacies or inaccuracies in the analysis or methodologies used in the Draft EA, identify new impacts or recommend reasonable new alternatives or mitigation measures, or involve disagreements or interpretations of impact significance. Comments, which express personal preferences or opinions on the proposal rather than on the evaluation itself, are not specifically addressed. Substantive comments are stated below as general issues with associated responses.

**Comment Issue #1:** Aesthetic result could be significant though EA states result is unknown.

**Response #1:** Visual impact of the proposed alternative livestock fence was addressed in Section 11 (Aesthetics & Recreation) of the Draft EA. It acknowledges that "some nearby residents may not appreciate having an 8-foot high fence to view." This is considered a minor impact, however, and does not require mitigation. Negative feelings about living near the alternative livestock facility are discussed in Section 9 (Community Impact) of the Draft EA.

**Comment Issue #2:** Against use of sportsmen's fees for private enterprise.

**Response #2:** The state legislature has established the funding mechanism for the alternative livestock program. Any changes to this system would need to come from the legislature. The funds are not used for promotion of, but rather regulation of the alternative livestock industry.



**Comment Issue #3:** Trace-back history of all introduced animals should be required.

**Response #3:** Regulations provide for trace-back history on all deer, elk, or other cervids either imported into Montana or acquired from sources within Montana.

**Comment Issue #4:** Double-fencing should be required for the perimeter fence at the alternative livestock facility.

**Response #4:** Fencing proposed by the applicants (Sandelins) and requirements for increased fence height in areas of steeper slopes meet requirements specified by FWP in ARM 12.6.1531. Double-fencing could be required upon evidence that the fencing standards employed at the facility in question do not provide for a "game proof fence." Stipulations 4 and 5 establish a fence-monitoring and maintenance plan that provide adequate fence construction.

**Comment Issue #5:** Concerned about CWD and water-borne diseases.

**Response #5:** These issues are addressed in Section 8 (Risk/Health Hazards) of the Draft EA.

**Comment Issue #6:** The fenced enclosure would displace wildlife.

**Response #6:** Displaced wildlife is discussed in Section 5 (Fish & Wildlife) of the Draft EA.

**Comment Issue #7:** The number of animals proposed for the enclosure is too high for amount of land.

**Response #7:** Animal density and related impacts on soil, water, and vegetation are described in Section 1 (Land Resources), Section 3 (Water Resources), and Section 4 (Vegetation) of the Draft EA. The currently licensed 12-acre facility has been approved for up to 20 animals. The expansion would allow up to 180 animals on 92 acres. Mitigation measures suggest the maintenance of adequate vegetation cover to lessen impacts on existing soil, water, and vegetation resources. Reasonable stocking rates are discussed in Sections 1-4.

**Comment Issue #8:** A more thorough EIS should be completed.

**Response #8:** As stated on page 1 of this Final EA, if FWP determines that a project would have a significant impact that cannot be mitigated to a minor impact, the agency will prepare a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon results of the EA and criteria established under Montana alternative livestock statute, Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4. In the case of the proposed Sandelin expansion, an EIS was deemed not necessary for the reasons described above. The potentially significant issue in ingress/egress is mitigated to a minor risk through fence construction and monitoring requirements.

**Comment #9:** Analysis of CWD is superficial.

**Response #9:** Comment noted. We believe, however, that sufficient information about CWD is provided in the Draft EA for purposes of evaluating the Proposed Action.

**Comment #10:** Changes in land use violate current protective covenants.

**Response #10:** The Declaration of Covenants, Restrictions and Limitations (Document No. 89-291-15010) clearly states that "covenants shall not be construed or interpreted so as to prohibit owners of portions of the property from raising a limited amount of livestock..." (It has been determined by FWP legal staff that the department lacks the jurisdiction to interpret and enforce covenants. The department is not enlisted with the authority to determine the validity of covenants. Covenants are private contracts between members of a homeowners association. While members of the association may challenge land use activities as violations of the covenants, outside parties may not. If the association prevails in a civil suit, the possession of alternative livestock on the land in question could be prohibited, even if the applicants have a state permit.)

**Comment #11:** The area should remain residential.

**Response #11:** Comment noted.

**Comment #12:** Increase the size of the buffer to 150 feet unless topographic features can be utilized to obscure view.

**Response #12:** Response #1 addresses visual impacts. Comments regarding buffer size are noted.

**Comment #13:** FWP should develop a permit stipulation prohibiting the shooting of confined animals.

**Response #13:** The Proposed Action does not include shooting of confined animals; therefore, a stipulation would not be imposed on an activity that has not been proposed within the enclosure.

## **CONCLUSION OF THE EA**

The Draft EA, as modified herein, and this Final EA are approved as the Final EA for the expanded Sandelin alternative livestock operation. The preferred alternative is the Proposed Action, modified with the required stipulations listed previously in this Final EA. Based on this review, it is determined that the Proposed Action with the required stipulations and mitigation measures (as needed) would not have a significant impact on the environment and that an EIS will not be required.



## ANALYSIS OF IMPACT ON PRIVATE PROPERTY

Montana alternative livestock statutes (87-4-476, MCA) require that licenses may be denied or issued with stipulations to prevent unacceptable threat of escape of alternative livestock, and to prevent a significant threat to the safety of the general public and surrounding landowners by the shooting of alternative livestock animals. MEPA requires FWP to identify and analyze environmental impacts of the Proposed Action and potential mitigation measures. MEPA, as revised by Senate Bill 231 of 1995, also requires agencies to evaluate the impact on private property of regulatory actions, such as denial of a permit or establishment of permit conditions (75-1-201, MCA). The Environmental Quality Council (EQC) has established procedural guidelines to implement these requirements. The analysis provided in the Draft EA was prepared in accordance with implementation guidance issued by the EQC.

In addition, the Private Property Assessment Act (2-10-101, MCA, et seq.) requires agencies to determine whether proposed actions by the state of Montana have "taking or damaging implications," such as to constitute a deprivation of private property in violation of the United States or Montana constitutions and, if so, to perform an impact assessment to determine the likelihood that a state or federal court would hold that the action is taking or damaging, to review alternatives, and to determine the estimated cost of compensation. In accordance with the Act, the attorney general has prepared guidelines, including a checklist, to assist agencies in identifying and evaluating actions with taking or damaging implications.

The Draft EA contains FWP's completed checklist with respect to the stipulations for the preferred alternative and has found that the preferred alternative does not have taking or damaging implications and that further analysis of impacts to private property is not required.

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